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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

CLEOPHUS TRIBBLE,

Plaintiff,

v.

MEMPHIS CITY SCHOOLS,

Defendant.

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No. 02-2949 M1/V

ORDER DENYING PLAINTIFF'S RULE 59 MOTION TO OPEN AND/OR AMEND  
JUDGMENT

Before the Court is Plaintiff's Rule 59 Motion to Open and/or Amend Judgment, filed May 31, 2005. Defendant did not file a response to Plaintiff's motion. For the following reasons, Plaintiff's motion is DENIED.

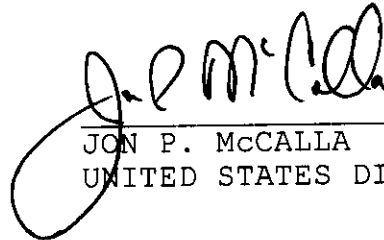
On May 19, 2005, the Court granted Defendant's motion for summary judgment and dismissed all of Plaintiff's claims in this case. (See Order Granting Def.'s Amended Mot. for Summ. J. (Docket No. 52).) Plaintiff moves to open the Court's judgment pursuant to Federal Rule of Civil Procedure 59. Rule 59 allows a party to move for a new trial and to open the Court's judgment "for any of the reasons for which new trials have heretofore been granted in actions at law in the courts of the United States ...." Fed. R. Civ. P. 59. The authority to grant a new trial under Rule 59 rests within the discretion of the trial court.

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Allied Chemical Corp. v. Daiflon, Inc., 449 U.S. 33, 36 (1980);  
Montgomery Ward & Co. v. Duncan, 311 U.S. 243, 251 (1940).

Plaintiff contends that the Court erred in granting Defendant's motion for summary judgment because genuine issues of material fact assertedly exist regarding whether Plaintiff could establish a prima facie case of race discrimination and whether Defendant established the existence of a legitimate non-discriminatory reason for Plaintiff's discharge. Having reviewed the record and the parties' submissions, however, the Court finds that no basis exists for opening the Court's judgment and ordering a new trial pursuant to Rule 59. Accordingly, Plaintiff's motion is DENIED.

SO ORDERED this 7 day of July, 2005.

  
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JON P. McCALLA  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 55 in case 2:02-CV-02949 was distributed by fax, mail, or direct printing on July 8, 2005 to the parties listed.

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Honorable Jon McCalla  
US DISTRICT COURT